

REMARKS

Claims 1, 3-7, 9-14 and 16-21 are pending. Claims 1, 3-7, 9-14 and 16-21 stand rejected under 35 U.S.C. § 112, ¶ 1 as failing to comply with the written description requirement. Claims 1, 3-7, 9-14 and 16-21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,523,026 to Gillis. Claims 2, 8, 15 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,523,026 to Gillis in view of U.S. Patent No. 5,799,276 to Komissarchik et al.

Reconsideration is requested. No new matter is added. The rejections are traversed. Claims 1, 3-7, 9-14 and 16-21 remain in the case for consideration.

RESPONSE TO ADVISORY ACTION

On April 7, 2005, the undersigned spoke with Examiner Opsasnick regarding the Final Office Action. During the telephone interview, the undersigned pointed out, and the Examiner agreed, that the claims were fully supported by the '963 application, which was incorporated by reference into the '726 application, which was incorporated by reference into this application, and that the rejection under 35 U.S.C. § 112, ¶ 1 was inappropriate. This telephone interview was followed by an Amendment After Final filed April 14, 2005.

On June 15, 2005, Examiner Opsasnick issued an Advisory Action. The Advisory Action indicated that that the second-level incorporation by reference of the '963 application was not valid.

On June 21, 2005, the undersigned and Examiner Opsasnick held an additional telephone interview. The topic of conversation was how to support the claim amendments without relying on the second-level incorporation by reference of the '963 application. The Examiner pointed to MPEP 608.01(p) as prohibiting second-level incorporation by reference. The undersigned pointed out that the claims as allowed in the '726 application include language that is almost identical to the amendments previously made in this application, and could be used to support the claims. In addition, the undersigned proposed contacting the Examiner of the '726 application and suggesting amending the specification to specifically include the pertinent language of the '963 application. While the '726 application has been allowed, the undersigned suggested that an amendment after allowance to include the subject matter would be appropriate: the '963 application has been neither published nor issued, and the appropriate text would be "essential matter" that should be specifically included in the '726 application. Examiner Opsasnick agreed that if the '726 application were amended to

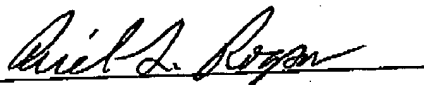
specifically include the appropriate subject matter, then the claims in this application would be properly supported. Such amendment was submitted in the '726 application on July 25, 2005.

The Examiner also mentioned concern about the priority claim in the '726 application, as the priority claim was not included in the application when originally filed. The undersigned pointed out that the '726 application was filed before the effective date of the American Inventors Protection Act (AIPA), and therefore was subject to the rules in effect before the AIPA, which allowed for a claim of priority at any time. (The undersigned also pointed out that even the AIPA permits a claim of priority after the filing date of the application, although circumscribes the time in which such a priority claim is made.)

In view of the novelty and non-obviousness of the claims as previously presented, this case is allowable over the prior art of record. For the foregoing reasons, reconsideration and allowance of claims 1, 3-7, 9-14 and 16-21 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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I hereby certify that this correspondence
is being transmitted to the U.S. Patent and
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